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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	BOARD OF HOME INSPECTORS
DATE AND TIME:	Friday, December 5, 2012 at 9:30 a.m.
PLACE:	861 Silver Lake Boulevard, Dover, DE Cannon Building, Second-Floor Conference Room A
APPROVED:	January 9, 2013

MEMBERS PRESENT

Donald S. Pyle, Sr., Professional Member, Chair
Daniel C. Eichelberger, Professional Member
Tim Harriger, Professional Member
Joyce Edwards, Public Member

MEMBERS ABSENT

Dennis Theoharis, Public Member, Vice Chair

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Eileen Heeney, Deputy Attorney General
Daniel Stevenson, Deputy Attorney General
Michele Howard, Administrative Specialist II
Amanda McAtee, Administrative Specialist II

PUBLIC PRESENT

John Kerrigan (entered at 9:34a.m.)
Wes Mast (entered at 9:35 a.m.)

CALL TO ORDER

Mr. Pyle called the meeting to order at 9:30a.m.

REVIEW AND APPROVAL OF MEETING MINUTES

The Board reviewed the meeting minutes from the October 12, 2012 and November 16, 2012 meetings. Mr. Harriger made a motion, seconded by Ms. Edwards, to approve the minutes. The motion carried unanimously.

Mr. Pyle congratulated Ms. Howard and Mr. Stevenson on their new positions.

UNFINISHED BUSINESS

Discussion Regarding Statutory Issues

The Board had requested that Ms. Heeney work on a bill. Ms. Heeney stated that she had contacted the Division Director, James Collins. Mr. Collins recommended that Ms. Heeney reach out to the bill sponsors since this was not a Division bill. The bill sponsors are Ms. Bennett and Ms. Peterson. Ms. Heeney stated that she would draft a letter to address the Board's concerns and send the letter to Mr. Pyle first for review. The letter would ask the bill sponsors to either come to a Board meeting or to respond in writing. Ms. Heeney stated that a face to face meeting would be the best way to articulate concerns.

Review Current Draft of Rules and Regulations from Ms. Heeney

Ms. Heeney presented the Board with a revised version of the Rules and Regulations draft. The Board reviewed the Rules and Regulations draft.

Continue Drafting Rules and Regulations

Mr. Harriger had a question on page five of the Rules and Regulations regarding a supervising home inspector. Mr. Pyle stated that the Board had agreed that a supervising home inspector would be a licensed home inspector. Mr. Harriger stated that not every licensed home inspector should be a supervising home inspector. Mr. Eichelberger stated that when licensing takes effect on August 6, 2013 potential home inspectors will submit their applications to the Division of Professional Regulation. There will be applicants that will not meet grandfather clause and will therefore become trainees. Currently there are no licensed home inspectors in the state which means that there are no supervisors available to potential trainees. Mr. Eichelberger questioned how the Division would deal with the three month time lag between home inspectors obtaining a license and becoming supervisors to oversee trainees that did not meet the grandfather clause.

Ms. Howard read Statute 4109 (a) (2) "the trainee shall practice only under the direct supervision of a licensed home inspector." Ms. Howard stated that trainees would not be able to get credit until a home inspector became licensed. Ms. Heeney stated that some applicants will submit materials right away and then it would be up to the Board to meet regularly to review these materials.

Ms. Howard suggested that trainees could begin training in August 2013 and keep logs under a person they strongly feel would become licensed as a home inspector and that they would be doing this at their own risk. Ms. Heeney stated that retroactive credit could be granted to trainees as long as their supervisor becomes licensed by November and that she would word that properly in the Rules and Regulations. Ms. Howard stated that retroactive credit should only be placed in the Rules and Regulations under the grandfather clause section. The Rules and Regulations should state that the home inspector supervisor must apply between August and November of 2013 and become licensed within three months of their application date.

Mr. Eichelberger asked Ms. Heeney about item number 227 under definitions. Ms. Heeney stated that she drafted the definitions from American Society of Home Inspectors (ASHI) documents.

Mr. Eichelberger stated that he understood and no longer had a question about the definitions.

Mr. Harriger stated that he was concerned about a rookie home inspector supervising a trainee and that some sort of designation should be present to prevent this. Ms. Heeney stated wording could be added under Rule 7.0 that in order to become a supervisor you must be licensed for a certain amount of time or performed a certain amount of inspections. Mr. Harriger suggested that 500 completed home inspections would be a good starting point and that the Board could always change this amount at a later date. Ms. Howard stated that the Division would have to obtain proof of their inspections and wanted to know if a home inspector could easily produce this documentation. Mr. Harriger stated a home inspector could provide that information to the Division.

Mr. Pyle asked about where in the process a prospective home inspector supervisor would provide the Division with the documentation proving their completed home inspections. Mr. Eichelberger stated that the prospective home inspector supervisor should apply for licensure and to be a trainer at the same time. He suggested that a check box be added to the application asking if the applicant if they would like to become a supervisor. He stated that this would start a pool of supervisors. Ms. Howard stated that there was not a known way to track that information in the Division's licensing database since that is currently not a license category. She suggested that the supervisor information should be included on the trainee's application. Ms. Heeney stated that she would add under Rule 7.0 that the supervisor must have a license in good standing and that this would be part of the trainee application. Mr. Harriger stated that Rule 7.5 should include language that states a supervisor should be present to inspect the entire home inspection with the trainee. Mr. Eichelberger agreed that the supervisor should

be present since they are responsible for that trainee. Mr. Pyle stated that with that language present in Rule 7.5 the interior and exterior wording could be removed.

Mr. Harriger stated that Rule 8.0 should state that it is the responsibility of a trainee to find a supervising inspector. Ms. Heeney stated that the supervisor would register the trainee under the current statute. Ms. Howard stated that the trainee would fill out the initial information and provide the supervisor with the addendum to complete which would attest that they have completed at least 500 inspections. Ms. Heeney stated that this process would be mostly driven by the trainee application.

Mr. Eichelberger asked Ms. Howard if the Division had a notary on staff. Ms. Howard replied that several notaries are on the Division staff and that anyone could obtain notary service from the customer service window.

Ms. Howard explained that the renewal process is done through the Division online and part of the process requires the licensee to answer questions relating to criminal convictions. If a licensee answers yes to any criminal conviction questions the renewal process will stop and the licensee will have to submit documents from the conviction to be reviewed before the license is renewed. If a licensee answers no to the criminal conviction questions and later it is found that they had convictions, the Board could issue discipline for dishonesty.

Mr. Harriger asked how the Delaware Code could be reviewed. Ms. Heeney and Ms. Howard stated the information is available on the Division website as it governs all of the Boards under the Division.

Mr. Pyle read through Rule 14, Continuing Education, of the Rules and Regulations draft. Ms. Heeney stated that these items were drafted from current ASHI guidelines.

Ms. Howard explained how approved courses currently appear on the Division's website for other Boards. The Board could state that they approve courses that are listed but also approve courses approved by ASHI that may not appear in their website listing.

Mr. Pyle continued reading through Rule 14.

Ms. Heeney stated that Rule 14.3.5.3 currently read, "ASHI Smart Track online education, up to 10 hours per licensure cycle." She was unsure of what ASHI Smart Track online education referenced. Mr. Pyle stated that the wording should be removed and replaced with online education. Ms. Heeney asked if the Board wanted to include a limit in the amount of continuing education hours obtained through online education. The Board decided that there should be no limit to the amount of continuing education hours obtained through online education. Ms. Howard confirmed with the Board to strike Rule 14.3.5.3 since Rule 14.3.5.2 already covered online study.

The Board discussed the wording on Rules 14.3.5.4, 14.3.5.5, and 14.3.5.12. Rule 14.3.5.4 stated, "Guest on a visiting inspection/ride along, up to 4 hours per licensure cycle. Rule 14.3.5.5 stated, "Visiting inspector/ride along host, up to 10 hours per licensure cycle. Rule 14.3.5.12 stated, "ASHI certified inspector guide of a parallel inspection, up to 10 hours per licensure cycle." After discussion the Board decided to revise Rules 14.3.5.4, 14.3.5.5, and 14.3.5.12 to state:

- Rule 14.3.5.4 Guest inspector on a ride along, up to 4 hours per licensure cycle.
- Rule 14.3.5.5 Host inspector on a ride along, up to 4 hours per licensure cycle.
- Rule 14.3.5.12 Board-approved supervising home inspector training a registered trainee, up to 20 hours per licensure cycle.

Ms. Heeney, Ms. Howard, and Ms. McAtee discussed the purpose of continuing education credits and questioned that the Board would grant half of the continued education credits required to home inspector supervisors for training registered trainees. Mr. Pyle, Mr. Harriger, and Mr. Eichelberger discussed the process of training another home inspector. They stated that there for the instructor there is a great educational quality to training another home inspector.

Mr. Pyle recognized Mr. Kerrigan; he explained his perspective on continuing education requirements. He stated that a home inspector training another home inspector has a much higher educational value than what is found in other industries and that he agreed with the Board's proposal of Rule 14.3.5.12.

After continued discussion the Board further revised Rules 14.3.5.4, 14.3.5.5, and 14.3.5.12 to state:

- Rule 14.3.5.4 Guest inspector on a ride along, up to 2 hours per licensure cycle. These credits may not be used by a trainee.
- Rule 14.3.5.5 Host inspector on a ride along, up to 2 hours per licensure cycle. These hours may not be used for credit under Rule 14.3.5.12
- Rule 14.3.5.12 Board-approved supervising home inspector training a registered trainee, up to 20 hours per licensure cycle.

Mr. Pyle stated that the next two Rules were written backwards as far as the granted hours were concerned. Ms. Heeney suggested flipping the hours and the Board agreed to revise the rules to state:

- Rule 14.3.5.7 Author a published article/paper on inspection issues, up to 5 hours per licensure cycle.
- Rule 14.3.5.8 Author a published book on inspection, up to 10 hours per licensure cycle.

The Board discussed Rule 14.3.5.9 and revised it to state:

- Rule 14.3.5.9 Instructor/speaker for an approved course or seminar, up to 3 hours per licensure cycle for the first time the course is taught.

Ms. Heeney stated that the verification process under Rule 14.4 is a standard process through the Division of Professional Regulation for licensees that have continuing education credits audited. If the Board determines that a licensee is deficient in continuing education hours they can hold a rule to show cause hearing and issue discipline as a result of the deficiency.

The Board took a short recess at 11:07 a.m. and reconvened at 11:22 a.m.

Mr. Pyle reviewed Rule 15.1.6 and stated that "ASHA standards of Practice" should be replaced with "Delaware standards of Practice." Standards and practices for home inspectors are covered under Rule 16.0.

Under Rule 16.0 Standards of Practice the Board modified the following:

- Added the word "visible" to Rule 16.5.1.5
- The Board added 16.6.3.1.5 and 16.6.3.1.6 which states that home inspectors are not required to:
16.6.3.1.5 Inspect solar-powered systems and their components
16.6.3.1.6 Emergency backup power systems.

- Rule 16.8.3.2 now states, "[the inspector is not required to] Inspect window air conditioning units, regardless of placement." The Board added the phrase, "regardless of placement" at the end of Rule 16.8.3.2.
- The Board changed 16.9 in the Rules and Regulations from "Air Conditioning" to "Interior."
- The Board added the word "accessible" to Rules 16.10.1.1, 16.10.2.1, and 16.10.2.2

Mr. Pyle reviewed the "Crimes Substantially Related to the Practice of Home Inspectors" section of the Rules and Regulations. Ms. Heeney stated she would modify the list of drug crimes and their related codes because they have changed recently. Ms. Heeney stated that this list was standard and she had used the crimes list from the Council on Real Estate Appraisers. She asked if the Board would like to see another Board's list of crimes. Mr. Eichelberger stated that he was fine with this listing since it just means that if an applicant was convicted of one of these crimes the Board would review the applicants on a case by case basis.

Ms. Heeney stated that after this meeting she will finalize the Rules and Regulations draft and will put it into public notice form for next meeting. Ms. Howard asked Ms. Heeney to send a copy of the public notice form to the Division's systems administrator Susan Miccio. She will also draft an email to the two representatives regarding the statutory issues.

Ms. Howard stated that once the final draft reached approval it would be published for the public and then a public hearing would be scheduled and held. There would be a period of time to allow for public written comments before and after hearing.

NEW BUSINESS - None

OTHER BUSINESS BEFORE THE BOARD (for discussion only)

PUBLIC COMMENT

Mr. Kerrigan asked the Board how the meeting minutes were produced and if his comments would be included in the minutes. Ms. McAtee responded that she was now the acting Board liaison and would be responsible for drafting the meeting agendas and minutes. Both documents are posted for the public on the Division of Professional Regulation's website. All public comments, including Mr. Kerrigan's are recorded in the public comment section of the minutes.

Mr. Kerrigan asked if the Board could establish a 90 day pre-application period since the law will take effect in August and some potential licensees would fall under the grandfather clause. Ms. Howard stated that the Board would go through an application drafting process and when the applications were finalized they would be placed online prior to August 6, 2013.

Mr. Kerrigan asked if the Board was clear that taking the ASHI exam before it changed to its current name was a real issue in Maryland licensing. Mr. Pyle stated that would not be an issue under the grandfather clause in Delaware.

Mr. Kerrigan stated that one of his employees would not qualify for the grandfather clause. He wanted to know if he could start training him in advance of the law taking effect. Ms. Howard stated that the Board decided today that when the law takes effect August 6, 2013 a trainee can sign up under a home inspector that they believe will be licensed under the grandfather clause and then begin training. Training cannot start in advance of August 6, 2013. Mr. Pyle stated that the Board cannot change the date the law goes into effect and that they were trying currently to change that.

Mr. Kerrigan asked if sample reports submitted during the application process became part of public record. Ms. McAtee stated that sample reports are not part of public record because they contain confidential client information.

Mr. Kerrigan commented on the requirement of a trainee performing 250 inspections under the direct supervision of a licensed home inspector. He stated that how the current law was written; an individual could become a licensed home inspector with 100 inspections. Once licensed, that home inspector could become a trainer and would then be required to go with a trainee for 250 inspections.

Mr. Kerrigan stated that he found this structure to be a little odd. Mr. Pyle stated that the Board was attempting to change the structure. Mr. Kerrigan stated that the point in his statement was why would there be a requirement that the inspector must be on site for the first 100 inspections, and then after that be under the direct supervision of that inspector for the remaining 150? If a trainee had to be strapped to someone for 250 inspections this would prove to be very difficult. Mr. Pyle stated that the Board could change that going forward and that he had raised the same issue.

Mr. Kerrigan asked the Board how the process of becoming a trainer would work. Ms. Howard stated that the trainee would fill out an application. As part of the application there would be an attestation form for the supervisor to fill out stating that they would be training and directly supervising the trainee. Also, in order to become a training home inspector the Board had decided that the supervisor would also have to attach a log proving that they had completed at least 500 home inspections. There is not a hearing before the Board involved in the process.

Mr. Kerrigan suggested that the Board should include language to state that continuing education could be used that was approved by industry related Boards for related subjects. Mr. Pyle stated that he would consider his recommendation.

Mr. Kerrigan asked if training inspectors could receive a financial payment and still receive continuing education credit for training. Ms. Howard stated that if you were a Board certified trainer and had a Board approved trainee that you could max out at 20 CE credits and that financial payment was not a factor that the Board would review.

Mr. Kerrigan asked for clarification concerning a ride along and if the Board allowed home inspectors to have helpers assist them in home inspections. Mr. Eichelberger stated that if someone comes out with a home inspector as a ride along that the ride along would not be doing the inspection and that the home inspector should not be sending a ride along to visually inspect anything during the inspection.

Ms. Howard stated that it would be under the home inspector's liability to have assistance from helpers or have a ride along accompany them on a home inspection. If a home inspector had any helpers assist during an inspection, they should not be doing any phase of the home inspection. If a helper did complete a phase of the home inspection it would be considered unlicensed activity.

Mr. Kerrigan asked the Board about the process of submitting applications for CE approval. He suggested that the Board should allow approved groups to hold monthly meetings and then submit paperwork at the end of the year listing the participants and what courses were covered rather than submitting paperwork each month for approval. Ms. Howard stated that the Board was not approving providers that they were approving courses. It would be up to the licensee that received an audit notice to have paperwork ready to submit to the Board documenting their CE courses.

Mr. Kerrigan asked if a licensed home inspector would be required to report any illegal activity witnessed while performing an inspection. Ms. Howard stated that duty to report laws exist but are mostly for medical professions.

Mr. Kerrigan asked about the Board's structure and voting process. Ms. Howard stated that five members make up the Board of Home Inspectors; they include 3 professional members and two public members. The Board members that are present at a meeting have voting privileges. Mr. Kerrigan presented a concern that politics would be involved in the Board's decisions. Ms. Howard responded that The Board had to vote in accordance with the law, Rules, and Regulations that govern the Board. Additionally, in the event that a professional member was used as part of an investigation they would have to recuse themselves from voting and then the vote would be between two professional and two public members.

Wes Mast addressed the Board and asked when the final draft of the Rules and Regulations would be made available to the public. Ms. Heeney stated that the Board is still currently reviewing the Rules and Regulations. Once the Board approves the final Rules and Regulations draft, the Rules and Regulations would be posted to the public. A public hearing would then be scheduled in order to make them final, the public would be permitted to make comments on the Board's proposed Rules and Regulations. The law which was written by the legislature is currently available online. As stated earlier in the meeting, the Board is currently proposing a bill to amend the law that was written by the legislature. Ms. Howard stated that the Board was currently drafting the Rules and Regulations which was a more specific version of the law. Under the current grandfather clause you do not need to take the exam if you have been in business for five years and have performed 100 home inspections.

NEXT MEETING

The next Board meeting will be at **9:30 a.m. on Wednesday, January 9, 2013 in Conference Room B** located on the second floor of the Cannon Building at 861 Silver Lake Boulevard, Dover, Delaware.

ADJOURNMENT

There being no further business to discuss, Mr. Harriger made a motion, seconded by Ms. Edwards, to adjourn the meeting at 12:50 p.m. The motion carried unanimously.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'A McAtee', with a stylized flourish at the end.

Amanda McAtee
Administrative Specialist II

The notes of this meeting are not intended to be a verbatim record of the topics that were presented or discussed. They are for the use of the Board members and the public in supplementing their personal notes and recall for presentations.